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4 United States Bankruptcy Court For The Eastern District Of Virginia
5 Richmond Division

6
7 Joseph E Dudley,) Case No.: 08-35653-KRH
8 Creditor to the Debtor's Trust)
9 Plaintiff,) Chapter 11
10 vs.)
11 Circuit City Stores, Inc, et al.,)
12 Defendant

MAR 25 2011

13
14 Whereas the Plaintiff has signed and agreed to the terms of the Cash Retention
15 Program (CRP), duly asks this honorable court to consider the following facts:
16

17 1. On or about January 15th, 2008 the Plaintiff did sign agree to the terms
18 of the CRP plan.

19 2. The Plaintiff was employed by the Defendant through the final and wind
20 down of operations with employment terminating on or about March 5th, 2009.

21 3. The Plaintiff, through no direct fault of his own, ceased to be employed
22 due to the bankruptcy court's liquidation orders.

23 4. The CRP "Forfeiture" section does not provide remedy in the event of
24 bankruptcy liquidation proceedings being ordered during the agreement period.

25 5. The CRP payments are due in their entirety as the Defendant was ordered
26 to cease operations and liquidate its assets by this court thereby ceasing to exist as
27 a going concern, thus materially breaching its contractual obligations to the
28 Plaintiff as defined by the CRP.

29 6. The CRP agreement provides "If you remain continuously employed on a
30 full-time active basis with the Company through and including the date on which a
31 Change of Control of the Company occurs, then notwithstanding any provision herein to

1 the contrary, any restrictions hereunder on your outstanding award shall lapse as of
2 such date."

3 7. A change in control occurred as of the filing date by the Defendant to
4 enter into bankruptcy protection by this court. This change in control should serve as
5 sufficient cause to "lapse restrictions on the outstanding award" as provided by the
6 CRP, which would cause the outstanding portion to be considered due and payable.

7 8. The claim should remain as a priority claim due to the award being
8 earned, as described by the CRP, within 180 days of filing as described by section
9 507(a)(4) of the Bankruptcy Code.

10 9. The CRP provides under the section "Withholding Taxes," and subsequently
11 provided a "Total Direct Compensation" letter (Exhibit 1, attached) from the
12 Plaintiff, the "Award" was represented to be part of the salary and compensation
13 package for the Plaintiff and was used in lieu of normal annual salary increases. As
14 such, the "Award" should be considered to be payable wages for work performed by the
15 Plaintiff on the behalf of the Defendant.

16

17 I humbly ask this honorable court for the following remedy as allowed by law:

18 10. My claim, #2476, be left as a priority claim.

19 11. The claim be re-calculated by this court to the maximum allowable cap
20 amount as allowed by the bankruptcy code.

21 12. The claim be made payable, and payment remitted as quickly as is
22 possible.

23 13. Any additional remedy as seen allowable by this court.

24

25

26 I ask for this,
27 Dated this 19th of March 2011

28 
29 Joseph E. Dudley
30 18513 Field Club Way
31 Tampa, FL 33647

32



Exhibit 1

Your Total Direct Compensation

About You:

Name	Joseph Edward Dudley
Employee ID	10391899
Department	Citrus Superstore
Statement Date	January 1, 2008

About Your Compensation:

	Compensation as of 1/1/2008
Job Title	Store Director
Base Pay	\$72,000
Annual Incentive Target Dollars (\$)	\$20,000
Target Annual Total Cash Comp	\$92,000
Target Long-Term Incentive (LTI) Award*	\$15,000
Target Total Direct Compensation	\$107,000

* Note: Details regarding the 1/1/2008 LTI grant are in the award letter contained in this package.

